

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	00 Civ. 1781 (RCC)
Plaintiff,	:	
	:	
v.	:	<u>ORDER</u>
	:	
SPACE HUNTERS, INC. and	:	
JOHN McDERMOTT,	:	
	:	
Defendants.	:	

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WHEREAS, on March 8, 2000, plaintiff United States of America (the "Government") commenced this action on behalf of Keith Toto under the Fair Housing Act, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 et seq., seeking damages and other relief against defendants Space Hunters, Inc. and John McDermott; and

WHEREAS, at trial of this matter, the evidence established, among other things, that since 1997 defendants have maintained a policy of refusing to accept telephone calls from disabled persons who telephone defendants through a relay service operator, and that defendants refused to deal with Keith Toto in 1999 when he called through a relay service operator; and

WHEREAS, on October 9, 2002, a jury returned a verdict in favor of the Government, finding that defendants violated Section 806 of the Fair Housing Act, 42 U.S.C. § 3606, by intentionally discriminating against Keith Toto on account of his disability; and

WHEREAS, Section 813(c) of the Fair Housing Act, 42 U.S.C. § 3613(c), authorizes this Court, upon a finding that a discriminatory housing practice has occurred or is occurring, to grant appropriate relief, including an order permanently enjoining defendants from engaging in discriminatory housing practices; and

WHEREAS, the Court finds that the relief set forth in this Order is appropriate;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

DEFINITIONS

1. As used in this Order, the term "Defendants" means Space Hunters, Inc., and its successors, assigns, owners, agents, representatives, and employees; and all persons acting in concert with them in the provision of housing services or other services relating to the business of renting dwellings, and John M. McDermott, both personally and in his capacity as owner, agent, representative or employee of Space Hunters, Inc. and its successors and assigns. This Order shall apply to John M. McDermott personally regardless of whether he remains an owner, agent, representative or employee of Space Hunters, Inc.

PERMANENT INJUNCTIVE RELIEF

2. Defendants are hereby permanently enjoined from engaging in any act or practice that violates the Fair Housing Act, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 et seq.

3. Defendants are hereby permanently enjoined from denying any person access to the services of Space Hunters, Inc., or to any other services relating to the business of renting dwellings, and from discriminating against any person in the terms or conditions of access to such services, on account of race, color, religion, sex, handicap or disability, familial status, or national origin.

4. Defendants are hereby permanently enjoined from (a) refusing to accept telephone calls made through relay service operators; and (b) discriminating against any person in the terms or conditions of access to the services of Space Hunters, or to any other services relating to the business of renting dwellings, because that person calls Defendants through a relay service operator.

5. Defendants are hereby permanently enjoined from instituting, continuing, enforcing, or giving effect to any policy, procedure, rule, or practice that has the purpose or effect of denying housing services to persons who are disabled or to persons who communicate or attempt to communicate with Defendants through an interpreter, intermediary, or relay service operator, or discriminating against persons because they are disabled or because they communicate or attempt to communicate with Defendants through an interpreter, intermediary, or relay service operator.

NOTICE TO THE PUBLIC

6. Within thirty days after entry of this Order, Defendants shall post and maintain fair housing signs, in a form

that complies with 24 C.F.R. Part 110, in all offices used, managed, or leased by Defendants, and shall include the following statements on all applications, publications, subscription agreements, and automated messages used by Defendants: We do not discriminate on the basis of disability, race, color, religion, sex, familial status, or national origin. We accept telephone calls from persons who call through relay service operators.

RECORD-KEEPING, MONITORING, AND COMPLIANCE

7. For a period of thirty-six months after entry of this Order, Defendant shall preserve all applications, publications, subscription agreements, and automated messages. For a period of thirty-six months after entry of this Order, Defendants shall keep and preserve records of all telephone calls received by Defendants from persons who call Defendants through a relay service operator or who otherwise identify themselves as disabled. Such records shall include the date and time the call was received, the name of the person calling, the duration of the call, and a brief description of the substance of the call. If, at any time during the thirty-six month period after the date of entry of this Order, Defendants maintain an audio and/or videotape recording system capable of recording incoming telephone calls made to the offices of Defendants, Defendants shall, for a period of thirty-six months after entry of this Order, record and preserve the recording of all telephone calls received from persons who call Defendants through a relay service operator or otherwise identify themselves as disabled.

8. Twelve months after entry of this Order, and every year thereafter for a period of thirty-six months after the date of entry of this Order, Defendants shall deliver to counsel for the Government (c/o United States Attorney's Office, Southern District of New York, 1 St. Andrew's Plaza, New York, New York, 10007, Attn: Assistant U.S. Attorney Andrew W. Schilling) a true and correct copy of all records required to be kept, recorded, or preserved pursuant to this Order together with a signed affidavit attesting to the accuracy and completeness of such records and recordings.

9. Representatives of the Government shall be permitted to inspect and copy those records of Defendants that Defendants are obligated to preserve pursuant to this Order at any and all reasonable times, provided, however, that the Government shall endeavor to minimize any inconvenience to the Defendants caused by the inspection of such records. The Government shall have the right to verify compliance with this Order through any means available to the general public, including communications to determine whether Defendants are complying with the Fair Housing Act and are accepting telephone calls from persons who call Defendants through a relay service operator or otherwise identify themselves as disabled.

10. For a period of thirty-six months after entry of this Order, Defendants shall provide counsel for the Government with written notice of any complaint, including any administrative or judicial complaint, alleging discrimination by Defendants in the provision of housing services. Such written notice shall be

provided to counsel for the Government within thirty days after receipt of such complaint by Defendants.

Dated: New York, New York
November 22, 2004

SO ORDERED:

Richard L. Lewis

UNITED STATES DISTRICT JUDGE